

ORIGINAL

006316

RECEIVED
DEC 23 8 40 AM '96
POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. MC96-3/34

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Special Services Fees and Classifications

Docket No. MC96-3

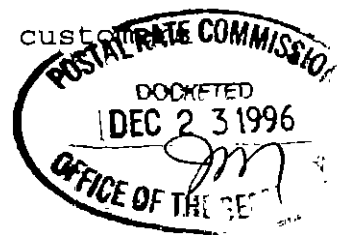
PRESIDING OFFICER'S RULING DENYING
MOTION TO STRIKE

(December 23, 1996)

This ruling denies an Office of the Consumer Advocate Motion to Strike Portions of the Rebuttal Testimony of Postal Service Witness Paul Lion (OCA Motion), filed December 10, 1996. The Response of United States Postal Service to OCA Motion to Strike Portions of the USPS-RT-3 (Response) was submitted December 13, 1996.

The OCA Motion requests that section II and section IV of witness Lion's rebuttal testimony, USPS-RT-3, be excluded from the evidentiary record. The Postal Service Response opposes this request. Witness Lion sponsored testimony, USPS-T-4, related to the use of post office boxes that was presented as part of the Postal Service direct case. The Office of the Consumer Advocate sponsored testimony which rebutted several points made by witness Lion. The portions of testimony subject to this motion to strike are essentially surrebuttal, intended to rehabilitate positions sponsored by Postal Service witnesses in direct testimony.

USPS-RT-3, Section II, develops the issue of how to evaluate whether post office boxes are unavailable to potential customers.



at a significant number of locations. The OCA Motion contends that its rebuttal to USPS-T-4 accepted witness Lion's "full capacity" assumption, and that witness Lion's new analysis is actually rebutting his own direct testimony. OCA Motion at 2. OCA also contends that the Postal Service failed to provide adequate documentation to allow analysis of witness Lion's workpapers. OCA Motion at 2-3.

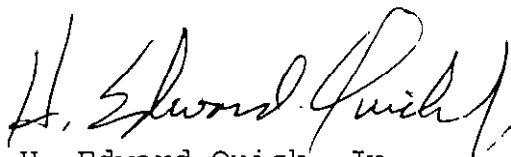
The Postal Service promptly supplemented its submission with the information necessary to allow analysis of witness Lion's testimony. Notice of United States Postal Service of Filing of Part II to Library Reference SSR-157, December 11, 1996. The delay in submitting supporting documents is unfortunate, but it is not grounds for striking the related testimony. The OCA substantive argument also is insufficient to warrant the extraordinary relief of striking testimony. USPS-RT-4, section II, presents analysis of post office box usage by size of box and size of office, information which will allow more focused consideration of potential capacity issues. This is an issue joined by witness Callow. See Tr. 5/1527-31. Thus I find Section II proper surrebuttal.

USPS-RT-3, Section IV, discusses the difference between book value and market value of space used for post office boxes. OCA describes this discussion as "a brand new justification of the need for higher post office box rates." OCA Motion at 4. The Postal Service does not suggest that OCA raises this comparison in its rebuttal; instead, it points to the relevance of this information to the adequacy of the low post office box markup OCA witnesses recommend. This argument is persuasive. Section IV

appears to be proper rebuttal to the OCA position on post office box rate levels.

RULING

The Office of the Consumer Advocate Motion to Strike Portions of the Rebuttal Testimony of Postal Service witness Paul Lion, filed December 10, 1996, is denied.

A handwritten signature in cursive script, reading "H. Edward Quick, Jr.", with a stylized flourish at the end.

H. Edward Quick, Jr.
Presiding Officer